



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE LICENSE AND	:	Administrative Action
CERTIFICATION OF	:	
	:	
	:	FINAL ORDER
	:	OF DISCIPLINE
ELIANA JOSEPH, LPN, CHHA	:	
LPN # 26NP05298700	:	
CHHA # 26NH02042500	:	
	:	
TO PRACTICE AS A NURSE AND A HOME	:	
MAKER HOME HEALTH AIDE IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Eliana Joseph ("Respondent") is a resident and a Licensed Practical Nurse in the State of New Jersey and has been a licensee at all times relevant hereto. Respondent also holds a certificate as a homemaker home health aide in the State of New Jersey, which certification expired in 1997.

2. In May 2012, Respondent submitted an application for RN licensure in North Carolina by endorsement of a RN license from Guam. As part of her application, Respondent submitted a verification of nurse licensure form which fraudulently verified a Guam RN license. In October 2012, the North Carolina Board of Nursing denied Respondent's application after verification from the Guam Board of Nurse Examiners that the verification of nurse licensure form provided by Respondent was fraudulent, the RN license number submitted by Respondent was fraudulent, and Respondent was not licensed to practice nursing in Guam.

3. In May 2012, Respondent submitted an application for RN licensure in Washington by endorsement of a RN license from Guam. As part of her application, Respondent submitted a verification of nurse licensure form which fraudulently verified a Guam RN license. In October 2012, the Washington State Department of Health Nursing Care Quality Assurance Commission (Commission) denied Respondent's application after verification from the Guam Board of Nurse Examiners that Respondent was not licensed to practice nursing in Guam. The Commission denied the application on the grounds that Respondent did not hold a RN credential and engaged in unprofessional conduct by fraudulently submitting the application.

4. On May 30, 2014, the Board sent Respondent a Demand for Written Statement Under Oath (DSUO) seeking information and documents regarding Respondent's applications to Washington and North Carolina, Respondent's nursing practice, and continuing education from June 1, 2010 onward. The DSUO was mailed via regular and certified mail. The regular mailing was not returned. The United States Postal Service track and confirm system indicates that the certified mail was returned "Unclaimed."

5. On or about April 4, 2012, Respondent completed and submitted an online biennial renewal application for her LPN license. Respondent was asked on the biennial renewal application whether Respondent would have "completed the required continuing education credits by May 31, 2012," referring to the biennial renewal period of June 1, 2010 to May 31, 2012. Respondent answered "Yes" and certified that answer by submitting the online application.

6. On or about April 9, 2014, Respondent completed and submitted an online biennial renewal application. Respondent was asked on the biennial renewal application whether Respondent would have "completed the required continuing education credits by May 31, 2014," referring to the biennial renewal period of June 1, 2012 to May 31, 2014. Respondent answered "No" and

certified that answer by submitting the online application. However, Respondent subsequently provided certificates of completion demonstrating that she had completed 30 hours of required continuing education on May 19, 2014. Further, Respondent answered "No" in question number 6, wherein she was asked whether any other board or licensing authority had taken action against her.

7. To date, Respondent has not replied to the Board's request for information.

CONCLUSIONS OF LAW

Respondent is an LPN who attempted on two occasions to obtain an RN license by fraud. The Board finds that Respondent's applications to North Carolina and Washington seeking endorsement of a RN license from Guam which was fraudulent and did not exist constitute the use or employment of dishonesty, fraud, deception, and misrepresentation subjecting Respondent to discipline pursuant to N.J.S.A. 45:1-21(b). The Board finds that Respondent has also attempted, on two separate occasions, to obtain a license through fraud, deception, and misrepresentation within the intendment of N.J.S.A. 45:1-21(a).

Respondent's failure to respond to the DSUO constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board

deems professional misconduct pursuant to N.J.S.A. 45:1-21(e) and also subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Pursuant to N.J.A.C. 13:37-5.3(b), nurses are required to complete a minimum of thirty (30) hours of continuing education during the preceding biennial period in order to renew their licenses. Pursuant to N.J.A.C. 13:37-5.3(f), nurses are required to maintain documentation of completion of continuing education for a period of four years after completion, and shall submit such documentation to the Board upon request.

By virtue of having failed to respond to the DSUO, Respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, that Respondent completed the continuing education credits required for renewal during the biennial period of June 1, 2010 to May 31, 2012. The Board therefore finds Respondent in violation of N.J.A.C. 13:37-5.3(b) and 13:37-5.3(f), which in turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent's use of dishonesty and misrepresentation during the license renewal process in falsifying her continuing education information constitutes a violation of N.J.S.A. 45:1-21(b), subjecting Respondent to sanctions.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on August 27, 2015, provisionally suspending respondent's nursing license, and imposing a reprimand and a total of \$8,250 in civil penalties. A copy of the Order was served upon respondent by certified and regular mail at her address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Ms. Joseph has responded to the Provisional Order. She has replied to the questions in the Board's letter of inquiry of May 30, 2014, and thus her failure to cooperate in violation of N.J.A.C. 13:45C-1.2, -1.3 is no longer ongoing. Moreover, in response to the request that she document required continuing education completed for the June 1, 2010-May 31, 2012 licensing cycle, she has provided certificates of completion for thirty (30) contact hours of qualifying nursing continuing education, completed on May 19, 2014. Thus she has demonstrated belated

completion of required continuing education for that licensing cycle.

Thus, with respect to the finding that respondent did not comply with N.J.A.C. 13:37-5.3 by failing to timely complete required continuing education, the Attorney General maintains that the \$250 civil penalty is warranted, as is the civil penalty of \$500 for respondent's initial failure to respond to the questions in the letter of May 30, 2014. Respondent did not provide a complete response to the Board until January of 2016. In addition, with respect to the finding that respondent acted in violation of N.J.S.A. 45:1-21(b) in that she falsely indicated on the renewal application she completed in April of 2012 that she would complete all required continuing education by May 31, 2012, the Attorney General further notes that the reprimand provisionally imposed in the Provisional Order is also warranted.

With regard to the most serious matters raised in the Provisional Order, i.e., the provisional findings reaching the conclusion that she attempted on two occasions to obtain an R.N. license by fraud, Ms. Joseph maintains that she herself was the victim of fraud. She states that in April of 2012 she wired \$9,050 to a Nigerian bank, believing that in return she would receive aid in preparing for the R.N. nursing examination

(NCLEX-R.N.). She claims that she provided information to an individual named Victoria Sampson, who was to assist her. According to Ms. Joseph, when she was notified by North Carolina that her application was denied, she realized that she had been defrauded. She claims that when she received the Board's letter of inquiry in May of 2014, she retained an attorney, Richard West, Esq., to assist her. She further claims that she did not realize that Mr. West had not addressed her concerns when she was served the Provisional Order of Discipline in August of 2015.

Ms. Joseph has supplied a copy of a "diploma" from Mission Bon Samaritain International School of Nursing, issued on July 25, 2008, which she claims was schooling for her R.N. qualifications. She supplies information, of which the Board was unaware, that she took the NCLEX-R.N. examination for the New Mexico Board of Nursing on January 28, 2010, and failed the examination. She states that the New Mexico Board somehow informed her at that time that "they are not affiliated with the school [Mission Bon Samaritain] anymore."

Ms. Joseph requests a full hearing. However, in response to the Provisional Order's direction to produce "any and all" documents or other written evidence supporting her position, Ms. Joseph has produced no documentation of transcripts of any

courses taken, or any indication that her diploma is from any accredited school. She has already tacitly acknowledged that the diploma was not recognized as valid by New Mexico. Ms. Joseph has held back from providing substantive information that would demonstrate her good faith, or demonstrate any actions taken that resemble those of a fraud victim: any report to police, letters or documentation of payment to her attorney, Richard A. West, or any efforts to recover her money.

Ms. Joseph's actions conform to a pattern that the Board has seen before in connection with nurses seeking to obtain R.N. credentials without obtaining the educational basis for those credentials, and without passing (or even taking) the R.N. examination. Sending \$9,050.00 to a Nigerian Bank, on the say-so of a person she never met, would be an extraordinary act of recklessness. Although her application for licensure in North Carolina was denied in October of 2012, Ms. Joseph does not appear to have taken any action at the time: no explanatory letters to North Carolina or the State of Washington are provided, and no indications of any efforts to recover her money or defend her reputation. (North Carolina clearly indicated in its letter dated October 17, 2012 that she had provided a fraudulent form to the North Carolina Board. In the Notice of Decision on Application filed on October 26, 2012 in Washington,

it was also found that her application was "fraudulently submitted.") She claims she contacted an attorney, Mr. West, only years later, after receiving an inquiry from the Board dated May 30, 2014.

Ms. Joseph points out that her name is spelled wrong on the Verification of Nurse Licensure form dated May 21, 2012, and an application form that was sent to North Carolina. This may indicate that she herself did not fill out the forms. However, there would be no reason for Victoria Sampson to submit the forms to North Carolina and Washington without prompting from Ms. Joseph. It was Ms. Joseph who sought an R.N. license, not Ms. Sampson. The circumstances are indicative of collusion in fraud, rather than indicative that Ms. Joseph was a victim of fraud. Ms. Joseph, in fact, has submitted nothing to support her version of the facts, apart from documentation of payment sent to Nigeria, and printouts from a web site.

Ms. Joseph has reached out to Nigeria, and has denials of an application for an R.N. license from Washington State and North Carolina. She has volunteered the information, as well, that she was seeking licensure in New Mexico. Ms. Joseph has apparently been vigorously attempting to become an R.N., but has not attended an accredited school, and has not taken and passed NCLEX-RN.

Had the application gone through, had Ms. Joseph succeeded in obtaining licensure as an R.N. in North Carolina or Washington, based upon her purported licensure in Guam, Ms. Joseph would have been able to then apply for licensure by endorsement as an R.N. in New Jersey. She would have been able to, without appropriate education and training, provide care to helpless and unsuspecting patients in New Jersey hospitals. Thus this fraud had the potential to inflict actual harm on the citizens of New Jersey, and the Board therefore regards Ms. Joseph's conduct in this matter unconscionable. The Board therefore finds that respondent attempted on two occasions to obtain an R.N. license by fraud in violation of N.J.S.A. 45:1-21(a) and (b), and that the three years suspension indicated in the Provisional Order is eminently warranted.

ACCORDINGLY, IT IS on this 18th day of February, 2016,
ORDERED that:

1. Respondent's license to practice nursing and certificate to practice as a homemaker home health aide are suspended for a minimum of three years, until further Board Order. Upon reinstatement, she shall be required to document completion of thirty hours of continuing education for any biennial period from June 1, 2012 to the time of reinstatement. The thirty (30) contact hours of continuing education dated May

19, 2014 may not be applied towards continuing education requirements for the 2012-2014 licensing cycle, as they have been used to satisfy the 2010-2012 licensing cycle requirements.

2. A reprimand is imposed on Respondent for falsifying the continuing education information on her license renewal application in 2012 and failing to disclose that she had been the subject of action taken by another licensing authority in 2014.

3. Respondent is assessed a civil penalty in the amount of eight thousand, two hundred and fifty dollars (\$8250). Said penalty is an aggregate penalty, which includes a penalty in the amount of seven thousand five hundred dollars (\$7500) for the fraudulent conduct, five hundred dollars (\$500) for failure to cooperate with a Board investigation, and two hundred and fifty dollars (\$250) for failing to timely complete required continuing education. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to State Board of Nursing, Attention: Leslie Burgos, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this

order. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law. The Board will not accept any petition for reinstatement until the within civil penalty has been paid in full.

4. Respondent shall refrain from practicing as a nurse or a homemaker home health aide and shall not represent herself as a Licensed Practical Nurse or a Certified Homemaker Home Health Aide until such time as her license and certification are reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Murphy PLD APN
Patricia Murphy, PhD, APN
Board President